IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE
CIVIL APPLICATIONNO. 464 OF 2007
IN
APPEAL FROM ORDER NO. 321 OF 2007

M/s. Ramesh Refreshments.... Petitioner

versus

Jawaharlal Nehru Port Trust..... Respondent.

Ms. Gauri Godse for the applicant/petitioner
Shri S.A.Bhawal i/b Vyas & Bhalwal for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 30TH APRIL, 2007

P.C.;
1. The plaintiff instituted a suit for declaration and perpetual injunction. The declaration sought is that the plaintiff is a monthly tenant and the tenancy stands protected by the provisions of Bombay Rent Act. The case of the defendant JNPT is that the plaintiff was awarded a contract after inviting the tenders. After the scrutiny of the documents, the plaintiff was granted a contract to run the canteen for a period of three years which period could be extended at the discretion of the defendant, and the petitioner continued to operate the canteen from the year 1997 to 2006. When the defendant published a fresh tender notice with a view to award fresh contract, the suit for declaration and perpetual injunction came to be filed.

2. Before the trial court two fold submissions were made: (1) that there is no concluded contract as no agreement was executed and (2) that the plaintiff is a monthly tenant.

3. The trial court, after considering the case of the rival parties, has proceeded to reject the temporary injunction application. Letter of intent states that the contract is being awarded to the plaintiff and an agreement will be signed as per the terms of the tender document. One of the terms in the tender document is to the effect that the plaintiff is not entitled to claim the status of monthly tenant is the finding recorded by the trial court. Hence the impugned order rejecting temporary injunction cannot be faulted as the terms of the tender document will regulate the contract even in the absence of specific agreement being executed. The trial court found that no primafacie case is made out.

4. Perused the order passed by the trial court. No interference is called for. Thus the petition challenging the interlocutory order stands rejected summarily.

5. At this stage the learned counsel for the petitioner submits that the protection granted by the trial court be further extended by a period of two months. The prayer cannot be granted and the same is rejected.

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